

1 HONORABLE THOMAS S. ZILLY  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 SETH JOSEPH KINNEY and RACHEL KINNEY,  
Husband and wife, and their marital community,

9 Plaintiffs,

10 v.

11 CITY OF LYNNWOOD, a non-charter,  
Municipal Code City, Officer CURTIS ZATYLN  
12 and EMILY ZATYLN, husband and wife, and  
Commander CHUCK STEICHEN and CARRI  
13 STEICHEN, husband and wife, and their marital  
community;

14 Defendants.

15 NO. 2:17-cv-00159-TSZ

16 STIPULATION AND ORDER  
EXTENDING DISCOVERY CUT-  
OFF FOR DEPOSITION OF ERNEST  
BURWELL ONLY

17 **STIPULATION**

18 For good cause shown and with the judge's consent, the Court may modify the deadlines in  
the scheduling order. Fed. R. Civ. P. 16(b)(4); *see also* LCR 16(b)(5). The "good cause" standard  
19 primarily considers the diligence of the party seeking the amendment: the district court may modify  
20 the pretrial schedule if it cannot reasonably be met despite the diligence of the party seeking the  
21 extension. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (citing

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2100 WESTLAKE AVENUE N., SUITE 206  
SEATTLE, WA 98109  
206-957-9669

1 Fed. R. Civ. P. 16 advisory committee's notes (1983 amendment)). Although the existence or  
2 degree of prejudice to the opposing party might supply additional considerations for a motion to  
3 modify, the focus remains on the moving party's reasons for seeking modification. *See also*  
4 *Johnson*, 975 F.2d at 609 (internal citation omitted).

5 On April 25, 2017, the Court issued its Minute Order Setting Trial Date and Related Dates,  
6 which established October 16, 2017 as the date for disclosure of expert testimony under Fed. R. Civ.  
7 P. 26(a)(2. (Dkt. # 8 at 1.) The Court set December 7, 2017 as the date by which motions related to  
8 discovery must be filed. (*Id.*) It also set January 15, 2018 as the date by which discovery was to be  
9 completed. (*Id.*) Despite the diligence of the parties and due to the unavailability of a single expert  
10 witness, Ernest Burwell, there is a sole deposition to be taken in this case that has not been  
11 scheduled.

12 Counsel understands that Mr. Burwell is out of the country until approximately the final  
13 week of January. The parties have conferred and, without waiving any arguments regarding the  
14 admissibility of Mr. Burwell's opinions or the timing of his disclosure by plaintiffs, Seth Kinney  
15 and Rachel Kinney, the parties have identified February 1, 2018 as the date for Mr. Burwell's  
16 deposition. The parties do not need to adjust any other court deadlines, will not be prejudiced by the  
17 proposed scheduling amendment, and seek a single exception to the discovery deadline of January  
18 15, 2018 based upon witness unavailability.

19 IT IS HEREBY STIPULATED AND AGREED between the undersigned parties, through  
20 their respective counsel of record, that good cause exists to permit the following deposition in this  
21 case to be conducted according to the schedule outlined:

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<b>DISCOVERY MATTER</b>	<b>DATE OF COMPLETION</b>
Deposition of Ernest Burwell (Taken by defendants)	February 1, 2018

RESPECTFULLY SUBMITTED this 12th day of January, 2018.

CHRISTIE LAW GROUP, PLLC

By /s/ THOMAS P. MILLER  
 THOMAS P. MILLER, WSBA #34473  
 Attorney for City of Lynnwood Defendants  
 2100 Westlake Avenue N., Suite 206  
 Seattle, WA 98109  
 Telephone: (206) 957-9669  
 Fax: (206) 352-7875  
 Email: tom@christielawgroup.com

LAW OFFICES OF WILLIAM H. TAYLOR

By /s/ JOSEF REIBEL  
 JOSEF T. REIBEL, WSBA #47311  
 Attorneys for Plaintiffs  
 PO BOX 898  
 Everett, WA 98206  
 Telephone: (425) 258-3553  
 Email: Josef@wtaylorlaw.com

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## ORDER

Based upon the foregoing Stipulation, the Court authorizes the parties to conduct the deposition of Ernest Burwell on February 1, 2018.

DATED this 16th day of January, 2018.

Thomas S. Bally

Thomas S. Zilly  
United States District Judge

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